



Richard Newton <richardrussellnewton@gmail.com>

Martha Swann v. East Ala Med Center -- Defendant's Failure to Cooperate in Discovery. Plaintiff's Int 28 and RfP BB

Richard Newton <richardrussellnewton@gmail.com>

Fri, Feb 21, 2025 at 7:22 AM

To: Brock Phillips <bphillips@maynardnexsen.com>, Warren Lightfoot <wlightfoot@maynardnexsen.com>

Please Consider This Email as a Rule 37 Correspondence and Request to Cooperate in Discovery

Dear Brock and Warren,

Yesterday afternoon (February 20, 2025) I received and reviewed Defendant EAMC's Objection and Answer to Plaintiff's Interrogatory 28 and Production Request BB.

I attach EAMC's answer / response hereto for your reference.

(1) EAMC's Answer to Interrogatory 28 was not signed / verified by an agent or representative of this Defendant.

(2) EAMC's Answer to Interrogatory 28 was incomplete and evasive, which, under Rule 37(a)(4), Plaintiff treats as and considers a failure to answer Interrogatory 28. See also, Rule 37(a)(3)(B)(iii).

(3) EAMC's Response (such as it was) to Plaintiff's Request for Production BB was evasive and no documents were produced. Under Rule 37(a)(4), Plaintiff treats this as a failure to produce. See also, Rule 37(a)(3)(B)(iv).

(4) EAMC's Objections were canned, were boilerplate, were without merit. Interrogatory 28 is, in fact, related to the acts and omissions of the Defendant, its mishandling of Plaintiff's employment grievance, its bad faith in handling Plaintiff's employment grievance, the EAMC Officials notified about and who participated in the January 24, 2023, grievance hearing, and the communications that took place between the "two administrative assistants" (whose identities EAMC refuses to disclose) and those notified / who participated. EAMC's recent self-defined and self-serving "underlying adverse action" trope is without merit. The "underlying adverse actions" are set forth in detail in the Complaint, and include EAMC's botched and bad faith "investigation" (such as it was) of Ms. Swann's grievance, leading up to and through the bad faith-infused January 24, 2023, hearing on that grievance. EAMC's acts and omissions throughout 2022 through at least the late January 2023 regarding workplace sex discrimination, pay discrimination and retaliation are inextricably intertwined and part and parcel of the whole; part and parcel of the underlying adverse actions. Finally, EAMC's answering Interrogatory 28 fully, completely, thoroughly, and in good faith, would in no way be "burdensome" to EAMC; in other words, whatever "burden" EAMC claims may exist to fully, completely, thoroughly and in good faith answer Interrogatory 28 is in no way "disproportional" to the needs of the case. Additionally, Interrogatory 28 is in no way "overbroad." It's quite specific, and limited in time and scope, and this Defendant, EAMC, knows it.

Please have your client, EAMC, Answer Plaintiff's Interrogatory 28 fully, completely and thoroughly by no later than the end of day, February 28, 2025. If you / your client refuse to do so, then I look forward to talking with you by phone on Monday, March 3, 2025, in order to make a last ditch effort and good faith effort to confer regarding this Interrogatory, before Plaintiff files her Motion to Compel (if EAMC digs in its heels, then the Motion to Compel will be filed on or before March 5, 2025). If it comes down to it, we can set up / confirm the time for that March 3 phone call next week.

(5) EAMC refused to produce documents in response to Plaintiff's Request for Production BB. It merely referred to its objections and incomplete and evasive Answer to Plaintiff's Interrogatory 28. Please see Plaintiff's Item (4) above regarding both this Defendant's Answer to Interrogatory 28 and, by this reference, Response to Plaintiff's Request for Production BB. Additionally, Request BB, which seeks production of the documents related to Interrogatory 28, is in no way "vague" or "overbroad" or any other such canned, boilerplate, objection. It, and Interrogatory 28, are quite specific, and limited in time and scope.

Please have your client, EAMC, produce the documents requested by Plaintiff's Request for Production BB fully, completely and thoroughly by no later than the end of day, February 28, 2025. If you / your client refuse to do so, then I look forward to talking with you by phone on Monday, March 3, 2025, in order to make a last ditch effort and good faith effort to confer regarding this Production Request, before Plaintiff files her Motion to Compel (if EAMC digs in its heels, then the Motion to Compel will be filed on or before March 5, 2025). If it comes down to it, we can set up / confirm the time for that March 3 phone call next week.

One last note, about language. When Defendant claims it doesn't have an "official custom" or "official practice," it seems that EAMC does not understand what the words "custom" or "practice" mean. A "custom," and pretty much a "practice," as distinguished from a procedure or policy, is / are *by definition*, not "official." At least from EAMC's Answer to Interrogatory 28, undersigned Plaintiff's counsel can glean that there is, in fact, an EAMC custom or practice when it comes to reserving the Conference Room, and regarding "all persons notified," about the January 24 hearing and its place and time. In sum, EAMC's attempt at pedantry regarding "custom" or "practice" fails.

I thank you in advance for your and your client's attention to this and remain,

Cordially yours,

Rick

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Richard R. Newton
Attorney at Law, PC
& Newton Mediation, LLC
7027 Old Madison Pike -- Suite 108
Huntsville, AL 35806
+205.356.2498

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EAMC's Objections and Responses to Swann's Fourth Discovery Requests.pdf

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